their troops and with their Scouting entities.

Through exposure to the outdoors, through the hard work and virtues of civic duty, the Boy Scouts have developed millions of young Americans into fine citizens today, community servants and, of course, future leaders. It is an honor to support this fine organization. Those values taught by Scouts have played an important role in shaping my own life and that of my family, and now, because of the Support Our Troops Act, Scouting continues to enrich the lives of countless young boys and girls and their families and their communities as it has always done over the last 100 years, strengthening the fabric of American life.

Madam President, I suggest the absence of a quorum.

ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. Reserving the right to object, I will not object if I can follow the Senator.

The ACTING PRESIDENT pro tempore. It is not in order to reserve the right to object.

Is there objection?

Mr. FEINGOLD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The Senator from Wisconsin.

ANWR

Mr. FEINGOLD. Madam President, I wish to bring to the attention of the body the extremely troubling tactics that some in this body have used over the past few days to try to push through a legislative proposal that, standing on its own, does not have the support of a majority of the U.S. Congress. And I think these tactics reflect poorly on this body and its leadership. Discarding the rules that govern all of us demonstrates contempt not only for the need to have and follow rules, but for the history, and future, of the United States Senate.

To be clear, I am talking about the inclusion of the Arctic National Wildlife Refuge drilling provision in the Department of Defense appropriations bill, a provision we all know is controversial and has not been able to pass Congress on a variety of occasions.

Drilling in the Arctic has absolutely nothing to do with funding the Defense Department. The distinguished minority leader has already submitted into the RECORD a letter from five retired U.S. generals who are arguing this very point: Funding for our brave men and women in uniform should not be jeopardized by including a highly controversial and unrelated provision to open up the Arctic National Wildlife Refuge for drilling.

I ask unanimous consent that this letter be again printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECEMBER 17, 2005.

Hon. BILL FRIST,
Majority Leader,
Hon. HARRY REID,
Minority Leader,
U.S. Senate, Washington, DC

DEAR SENATOR FRIST AND SENATOR REID: We are very concerned that the FY2006 Defense Appropriations Bill may be further delayed by attaching a controversial non-defense legislative provision to the defense appropriations conference report.

We know that you share our overarching concern for the welfare and needs of our troops. With 160,000 troops fighting in Iraq, another 18,000 in Afghanistan, and tens of thousands more around the world defending this country, Congress must finish its work and provide them the resources they need to do their job.

We believe that any effort to attach controversial legislative language authorizing drilling in the Arctic National Wildlife Refuge (ANWR) to the defense appropriations conference report will jeopardize Congress' ability to provide our troops and their families the resources they need in a timely fashion.

The passion and energy of the debate about drilling in ANWR is well known, and a testament to vibrant debate in our democracy. But it is not helpful to attach such a controversial non-defense legislative issue to a defense appropriations bill. It only invites delay for our troops as Congress debates an important but controversial non-defense issue on a vital bill providing critical funding for our nation's security.

We urge you to keep ANWR off the defense appropriations bill.

Sincerely,

JOSEPH P. HOAR,
General, U.S. Marine Corps (Ret.).
ANTHONY C. ZINNI,
General, U.S. Marine Corps (Ret.).
CLAUDIA J. KENNEDY,
Lieutenant General, U.S. Anny (Ret.).
LEE F. GUNN,
Vice Admiral, U.S. Navy (Ret.).
STEPHEN A. CHENEY,
Brigadier General, U.S. Marine Corps (Ret.).

Mr. FEINGOLD. Thank you, Madam President.

For the benefit of my colleagues, I would like to read from the Senate's Web page and the Web page of the Senate Committee on Rules and Administration—the very places the American public would refer to when interested in learning how the Senate has said it will conduct business. I have printed copies of the relevant pieces of these U.S. Government Web sites, and I ask unanimous consent that these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STANDING RULES OF THE SENATE

CHAPTER 28: CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS

2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report is rejected or shall be recommitted to the committee of conference if the House of Representatives has not already acted thereon.

HISTORY OF COMMITTEE ON RULES AND ADMINISTRATION

I. INTRODUCTION

All legislative bodies need rules to follow if they are to transact business in an orderly fashion. Legislatures must have established rules if they are to operate fairly, efficiently, and expeditiously.

Mr. Jefferson wrote in his Manual of Parliamentary Practice that whether the rules ''be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.''

The first Senate understood this concept, and on the next day after a quorum of the Senators appeared and took their oath of office, a special committee was created to ''prepare a system of rules for conducting business.''

The committee consisting of Senators Ellsworth (Conn.), Lee (Va.), Strong (Mass.), Maclay (Pa.), and Bassett (Del.) was appointed on April 7, 1789, and on April 13, it filed a report which ''was read, and ordered to lie until tomorrow, for consideration.''

The following day the report was read again, but consideration thereof was put off until April 15. On April 16, the new set of rules, consisting of 19 in total, was adopted, but on April 18, another rule numbered XX, not reported by the committee, was adopted.

The members of this first committee were qualified for their task; all five were lawyers with experience in various legislative bodies. Senators Ellsworth, Strong, and Bassett, in addition to their other legislative experiences, were members of the Federal Convention. Mr. Lee had been President of the Continental Congress as well as a member of other legislative bodies, and Mr. Maclay had served in the Pennsylvania Provincial Assembly.

Other special committees formed to revise or reexamine the Senate rules and to recommend changes therein, were created from time to time until April 17, 1867. On this date a committee of three Senators was appointed ''to revise the rules of the Senate, and to report thereon early in the next session.'' This committee became known as the Select Committee on the Revision of the Rules and, as such, was a continuous committee until December 9, 1874, when it was designated as a standing committee to be known as the Committee on Rules.

From 1789, when the first committee was appointed, until 1867, the beginning of a continuous committee on rules, the Senate created nine special committees to revise the rules of the Senate, but only seven (3) filed reports to the Senate, and, pursuant to such reports during that time, the Senate adopted three general revisions of its rules, none of which were at the beginning of a new session. During that same period, the Senate

occasionally amended its existing rules and adopted various procedural orders, some or most of which were included in the body of the rules when each next general revision was adopted.

The select committee, begun in 1867, consisted of three Senators and was directed by resolution adopted on April 13, ''to revise the rules of the Senate, and to ''report thereon early in the next session.'' The committee filed its report, which was ordered printed, on February 21, 1868, and the Senate adopted this general revision of its rules on March 25, 1868. On December 21, 1874, the Senate adopted a resolution instructing the standing Committee on Rules ''to consider the propriety of revising and reclassifying the rules of the Senate,'' and that it report accordingly at the earliest day practicable. The committee made its first report on March 2, 1875, which was ordered printed and recommitted.

On July 14, 1876, the committee filed another report on rules revision; the Senate proceeded to consider this report on December 18, 1876, which it recommitted on the same day. On December 26, 1876, the Committee filed another report which was ordered to lie on the table. The Senate began consideration of this report on January 15, 1877, and after three days of consideration and the adoption of various amendments, the revision of the rules was adopted on January 17, 1877.

On March 2, 1883, the Senate adopted a resolution instructing the standing Committee on Rules ''to sit during the recesses of Congress, at Washington or elsewhere, for the purpose of revising, codifying, and simplifying the rules of the Senate.'' On December 10 of that year, a report was submitted, which the Senate began to consider on December 13 and continued with from time to time until January 11, 1884, when another general revision of the rules was adopted.

On May 10, 1976, the Senate adopted Senate Resolution 156 (submitted by Mr. BYRD, the majority leader) to authorize and direct the Committee on Rules and Administration to prepare a revision of the Standing Rules of the Senate. On November 7, 1979, a report was filed pursuant to the above resolution in the form of Senate Resolution 274 (submitted by Mr. BYRD for himself and Mr. Baker, the minority leader), to revise and modernize the Standing Rules of the Senate without substantive change in Senate procedure and to incorporate therein certain other rules of the Senate. The resolution was called up on November 14, 1979, and passed by a vote of 97 to 0, after a brief discussion thereon.

Between 1884 and 1979, many changes were made in the rules of the Senate and its procedure. The history of these changes has been piecemeal. Some amendments to the rules were proposed by the Rules Committee in the form of resolutions reported by that committee and adopted by the Senate, and some resolutions amending the rules in various ways were submitted, considered, and passed immediately or soon thereafter without reference to a committee. Some changes were made by the Senate agreeing to unanimous consent requests to that effect, and precedents and practices of the Senate since 1884 have had a great effect on the rules and procedure. Additionally, some changes were made by a combination of the above methods. For example, one of the most controversial provisions of the changes in the Senate rules since 1884 includes the cloture rule. The Committee on Rules reported S. Res. 195 on May 16, 1916, to amend Rule XXII to provide for a cloture procedure. It was debated but did not come to a vote. On March 7, 1917, the Senate was called into special session, and Senator Martin of Virginia submitted a resolution (S. Res. 5) to provide for a cloture procedure. It was similar to the resolution reported by the committee and was adopted on March 8, 1917. A number of amendments have been made to this rule—some reported and adopted; and some submitted, called up for consideration without reference to a committee and adopted. The so-called post-cloture amendment to rule XXII, adopted in 1979, was called up without reference and adopted, but the Committee on Rules and Administration had reported a resolution in the previous Congress containing a section therein that was very similar to the resolution adopted in 1979.

II. RULES COMMITTEE—A BRIEF SKETCH OF ITS DEVELOPMENT

HISTORY OF SPECIAL COMMITTEES ON RULES BEFORE THE CREATION OF A STANDING COMMITTEE ON RULES

The Senate first convened on March 4, 1789 without a quorum (only eight Senators appeared) and without any rules. It was not until April 6 that a quorum of the membership appeared. During the interim, the Senate adjourned from day to day without transacting any business except acting on proposed communications to absent members requesting their attendance. On April 7, a special committee to prepare and propose a system of rules was created (Journal, p. 10) as follows: ''Ordered, That Mr. Ellsworth, Mr. Lee, Mr. Strong, Mr. Maclay, and Mr. Bassett, be a committee to prepare a system of rules to govern the two Houses in cases of conference, and to take under consideration the manner of electing Chaplains, and to confer thereupon with a committee of the House of Representatives.'' ''Ordered, That the same committee prepare a system of rules for conducting business in the Senate.''

This committee performed its assignment and filed a report on April 13, 1789, proposing 19 rules for conducting business in the Senate. The report was adopted on April 16, 1789, which gave the Senate the following 19 rules (Journal, p. 13):

The, report of the committee appointed to determine upon rules for conducting business in the Senate, was agreed to. Whereupon, ''Resolved, That the following rules, from No. I, to XIX, inclusive, be observed.''

I. The President having taken the chair, and a quorum being present, the journal of the preceding day shall be read, to the end that any mistake may be corrected that shall have been made in the entries.

II. No member shall speak to another, or otherwise interrupt the business of the Senate, or read any printed paper while the journals or public papers are reading, or when any member is speaking in any debate.

III. Every member, when he speaks, shall address the chair, standing in his place, and when he has finished, shall sit down.

IV. No member shall speak more than twice in any one debate on the same day, without leave of the Senate.

V. When two members rise at the same time, the President shall name the person to speak; but in all cases the member first rising shall speak first.

VI. No motion shall be debated until the same shall be seconded.

VII. When a motion shall be made and seconded, it shall be reduced to writing, if desired by the President, or any member, delivered in at the table, and read by the President, before the same shall be debated.

VIII. While a question is before the Senate, no motion shall be received unless for an amendment, for the previous question, or for postponing the main question, or to commit it, or to adjourn.

IX. The previous question being moved and seconded, the question from the Chair shall be: ''Shall the main question be now put?'' And if the nays prevail, the main question shall not then be put.

X. If a question in debate contains several points, any member may have the same divided.

XI. When the yeas and nays shall be called for by one-fifth of the members present, each member called upon shall, unless for special reasons he be excused by the Senate, declare, openly and without debate, his assent or dissent to the question. In taking the yeas and nays, and upon the call of the House. the names of the members shall be taken alphabetically.

XII. One day's notice at least shall be given of an intended motion for leave to bring in a bill.

XIII. Every bill shall receive three readings previous to its being passed; and the President shall give notice at each, whether it be the first, second, or third; which readings shall be on three different days, unless the Senate unanimously direct otherwise.

XIV. No bill shall be committed or amended until it shall have been twice read, after which it may be referred to a committee.

XV. All committees shall be appointed by ballot, and a plurality of votes shall make a choice.

XVI. When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, without debate; but, if there be a doubt in his mind, he may call for the sense of the Senate.

XVII. If a member be called to order for words spoken, the exceptionable words shall be immediately taken down in writing, that the President may be better enabled to judge of the matter.

XVIII. When a blank is to be filled, and different sums shall be proposed, the question shall be taken on the highest sum first.

XIX. No member shall absent himself from the service of the Senate without leave of the Senate first obtained.

Two days later (April 18) the Senate adopted the following motion, giving the Senate a total of 20 rules (Journal, p. 14): On motion, Resolved, That the following be subjoined to the standing orders of the Senate:

XX. Before any petition or memorial, addressed to the Senate, shall be received and read at the table, whether the same shall be introduced by the President, or a member, a brief statement of the contents of the petition or memorial shall verbally be made by the introducer.

After the first session of the first Congress, a considerable number of orders and resolutions to study a particular rule or a general revision of the rules were adopted before the Rules Committee became a standing committee. This review will concern itself only with the creation of special committees which were concerned with a general revision of the rules as opposed to those created to explore a certain procedure or particular operations of the Senate. There were more special committees created to study general revisions of the rules than there were general revisions adopted; some committees never filed a report and others filed reports which were rejected.

During the entire history of the Senate, only seven general revisions of the rules since 1789 have been adopted, namely: March 26, 1806; January 3, 1820; February 14, 1828; March 25, 1868; January 17, 1877; January 11, 1884; and November 14, 1979. The last three revisions were considered and reported by the standing Committee on Rules before being adopted by the Senate.

Mr. FEINGOLD. Thank you, Madam President.

Let me start with reading from the Senate Web page's description of the legislative process—our description to

the public as to how we do business in our Nation's Capitol.

Under the heading ''Conference Committees; reports; open meetings,'' the first sentence reads:

2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses.

This section goes on in more detail, but let me turn to what our constituents, members of the public whom we expect to abide by the laws we pass, would find if they visited the Senate Committee on Rules and Administration Web site:

All legislative bodies need rules to follow if they are to transact business in an orderly fashion. Legislatures must have established rules if they are to operate fairly, efficiently, and expeditiously.

The committee Web site goes on to quote from Thomas Jefferson's 1801 edition of the ''Manual of Parliamentary Practice,'' saying that:

. . . whether the rules ''be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body.''

A logical follow-up question is then: How is it that we find it acceptable to knowingly break our own rules? I am truly astonished at the contempt I see certain of my colleagues showing for this institution on this issue.

I could stand here and read at length from the history of the Senate rules, as written by the Senate Committee on Rules and Administration, to reflect on how our rules came to be. I will not do that. But I do encourage my colleagues to read up on this history, because if we go forward on the path that some have set, I worry what it means for the future of this body. It most definitely opens the door to future abuses. If you don't like the rules, you break them. In fact, those who want the drilling provision included in the defense spending bill, recognizing that it breaks Senate rules, have actually put language into the conference report that says once the bill is signed into law, Senate rule 28 would come back into effect.

In fact, let me read the exact language:

Section 13, Legislative Procedure: Effective immediately, the Presiding Officer shall apply all of the precedents of the Senate under rule 28 in effect at the beginning of the 109th Congress.

So apparently you can break the rules because you will immediately reinstate the rules. Is this the message the Senate is willing to send to the American public? I have more faith in this body than to believe we are willing to sink so low.

Let's imagine the consequences if, in fact, this conference report is accepted. You can't move an unpopular proposal through the legislative process? No need to worry. You just attach language to an important funding bill that says you want to reinstate the rules after you have broken them. Is this the precedent that we, Members of both parties, want to set, a precedent that says you can break the rules because you will put them back in place? I sincerely hope not.

Additionally, how will we respond when our constituents ask us, how is it that the very people who make the laws that govern public behavior simply ignore the rules governing their own behavior? What will we say?

Madam President, I hope when it comes time for the Senate to go on record as to whether it believes its rules are important enough to stand, that a majority of this body will take the honorable position that this institution's rules are worth defending.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President, I am sad to hear a Senator say that this amendment that is controversial, the amendment to allow exploration and development of the Arctic Coastal Plain, has never passed the Senate. It passed the Senate this year as part of the reconciliation package. It passed both bodies in 1995 and was vetoed by President Clinton.

With regard to the question of the concept of matters being added to conference reports, we voted in 1995 on a motion to overturn the Chair. It was a motion to overturn the Chair on the aviation reauthorization reform bill. It was the last bill before the Congress at that time. At that time, there was an appeal from the Chair, and there was a vote to overturn the Chair. The Chair was not sustained. On that vote, there were a series of Senators, here now, who voted to disagree with the Chair.

We are not changing the rules at all. Rule XXVIII is not affected by the amendment I am presenting to the Senate. I have been around here 37 years. I know the rules. I was chairman of the Rules Committee for a while. As a matter of fact, I think I wrote, during the time I was Rules Committee chair—I am still on the Rules Committee—the comments the Senator read.

As a practical matter, the right to disagree with a ruling of the Chair is inherent in any body, any legislature. In Roberts Rules of Order, it is a little different than it is here. But we have the right to appeal the ruling of the Chair. When we do, it is not destroying the rule. It represents a difference of opinion.

Do you know what the difference of opinion now is? It is whether this amendment, which is the amendment to go forward, as the Congress indicated in 1980 in the Alaska National Interest Conservation Lands Act, with the exploration and development of the Arctic Plain of Alaska, whether that is part of and related to national security.

Oil is related to national security. I will provide the statistics later on how much oil the Department of Defense uses. This is an amendment to pursue domestic production of oil, without which we will be in great difficulty. The largest consumer of oil in the United States is the Department of Defense. If the opposition disagrees with us on that position, then let's see whether the Senate believes that this is a matter that is in the interest of national security.

We should not be having people say that it has never been done, that I am trying to do something that breaks the rules. We don't break the rules. We are living by the rules. This amendment is here because of the rules. I intend to enforce the rules. One of the procedures in this Senate is to appeal the ruling of the Chair. We haven't had that ruling yet. There appears to be a presumption that it will happen.

But let's go back to 1980, to that time when we had the Alaska oil pipeline amendment. At that time, we had the same opposition from the extreme environmental groups. It was going to destroy Alaska. It was going to destroy caribou. It was going to be inconsistent with our environment. There was no filibuster. There wasn't even the threat of filibuster. The Senate at that time agreed that oil was a matter of national security, and we don't filibuster national security issues. As a matter of fact, in defense matters, on the defense Appropriations bill, et cetera, we need 51 votes, not 60, on various matters with regard to compliance and whatnot of the Senate. There are exceptions here. They could get a couple of 60-degree votes when we have this bill before the Senate.

But the point I am trying to make is, the Senate, at the time we passed the Alaska oil pipeline amendment, did not filibuster. What has happened is the constant filibuster now during this decade by people who persist in trying to reverse the provisions of the 1980 act.

I will never forget the 1980 act because that act, in 1978, had been blocked by my then-colleague, Senator Gravel, in the closing minutes of the Congress in 1978. It had passed the House. It passed the Senate. It had gone to conference. It came out of conference, and Senator Gravel blocked that by demanding that the bill be read after the adjournment resolution had been presented to the Senate.

In the next Congress in 1979, my good friend Senator Jackson of Washington came to me and said: Ted, if you want to be involved in consideration of this bill this year, you must come back to the Interior and Insular Affairs Committee. I had left that committee to come to the Appropriations Committee. But as a matter of fact, I did. I left the Appropriations Committee and went back to the Interior and Insular Affairs Committee. We worked on that same bill then for 1979 and 1980.

That was a period of extreme stress for me. I lost my wife in the 1978 accident that happened after the blocking of that bill. We all knew that we had to

come back in. As a matter of fact, the flight we were on was a flight to raise money to come back and ask people to help us lobby for the passage of something to get that bill done.

At that time Alaska's selection of lands under the act were blocked by what was called a freeze. They were blocked by an order made by President Carter under the Antiquities Act. We could not go forward without getting an act passed. So I split off from my then-colleague and said: I am going to help you. I only want one thing in this bill for sure. And that is, I wanted the right to continue to explore the Arctic Plain. The two Senators in charge of that bill, Senator Tsongas of Massachusetts, Senator Jackson of Washington said: You are right. And they put in the amendment that created section 2002 in the 1980 Alaska National Interest Lands Conservation Act. It was their amendment.

These people are filibustering fulfilling the commitment of Senator Tsongas and Senator Jackson. As a matter of fact, I did vote for that bill and, at the time, there were enormous full-page ads in newspapers in my State which said: Come home, Ted. You no longer represent us. We can't trust the Congress.

I said: I trust the Congress. I particularly trust Senator Tsongas and Senator Jackson. Unfortunately, God willed otherwise. Those two gentlemen left us prematurely and, as a consequence, we have fought now for 25 years to fulfill that commitment.

Let me tell you a little bit more history, Madam President. I was in the Department of Interior during the Eisenhower days. In 1958, I helped write the order that created what was known as the Arctic Wildlife Range. In that range, 9 million acres in northeast Alaska, oil and gas exploration was permitted.

The reason I asked for this amendment in 1980 was that I wanted to continue the fact that oil and gas exploration would be permitted.

I see I am close to the end of my time. I will finish my statement later; others want to speak but I want to finish with this one comment, with the permission of the Chair.

I am not trying to turn over the rules. I am not trying to do anything that others have not done. We have a full right to appeal the ruling of the Chair, should it take place, that we disagree with the basic assumption that oil is not needed in the interest of national security. And those of us who will vote to make sure we vote on this conference report are ones who believe in national security. We cannot mention the vote in the House, but we can mention the statements in the House. See what they said on the House floor. We believe in national security. This amendment must go through as part of the National Security Defense Appropriations Act of 2005.

I yield the floor. I will be back throughout the day, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I wish to make a couple quick points regarding the remarks of the Senator from Alaska.

Let's be clear, the Senate has never passed the version of the Arctic drilling that is included in this Department of Defense bill. That is simply not the case.

Mr. STEVENS. The Senator didn't say that.

Mr. FEINGOLD. The Senator indicated we passed this provision before, and we had not. And if the Senator is not breaking the rules, why does he need to create language that explicitly reinstates the rule? He can't have it both ways—have language that says the rule doesn't apply in this instance but will go right back into effect. It clearly is breaking the rule, and the Senator is trying to set a precedent for all this. The aviation bill from the midnineties—I remember that one—they didn't have the votes to put in this special interest provision for Federal Express business. It is something that never passed any committee in the whole Congress. Yes, they violated the rules and abused the rules to get that one done, too. I wouldn't use that as a precedent. It is merely a precedent of the abuse that is occurring here.

Mr. STEVENS. Madam President, is it possible for me to regain the floor?

The ACTING PRESIDENT pro tempore. Yes. The Senator is recognized.

Mr. STEVENS. Madam President, let me say this. If it was possible to have an appeal of the ruling of the Chair in 1996, it is possible now. That is not breaking the rules. With regard to the version of this bill, we took the bill that passed the House and have added to it the provisions that allow funding for disaster areas and other items, but the basic portion of this bill that is coming to us in this amendment is, in fact, the bill that passed the House before.

Again, I want to say this. I think there is a lot of really extreme comments about this Senator's actions. They can't come close to really offending the rules themselves. I have done nothing illegal. I have done nothing immoral. I have done nothing wrong. I am pursuing—as a matter of fact, there hasn't been a ruling of the Chair yet, but thinking there might be, we followed the procedure that was established by the distinguished minority leader in 2000. We put a provision in there saying, look, if there is a ruling and consideration of this amendment, we do not want to disturb the rules.

By the way, after the aviation ruling that I mentioned, the Federal Aviation Reauthorization Reform Act, the rule wasn't changed; it was the interpretation of the Parliamentarian. The Parliamentarian believes that after a Chair is overruled, the rule is no longer enforceable. It is still there, but it is a question of enforcement, not a question of repealing.

Even if we have an appeal of the Chair, and the Chair is overruled, we won't take rule XXVIII out of the rules. It will be a question of whether the Parliamentarian will tell the Chair that based upon precedent that rule would no longer be enforceable.

So we put a provision in the bill saying in the event a ruling of the Chair is overturned and there is a situation where the Parliamentarian would advise the Chair that means rule XXVIII is no longer enforceable, then we use the same approach of the Senator from Nevada, and we say that will not be the case. We do not intend to destroy the rule. We intend to support the rule. We don't want it to be in hiatus.

After the 1996 act, it was inoperable for 4 years because of the interpretation of the Parliamentarian, based upon precedent. I am not criticizing the Parliamentarian; that is the basic precedent of the Senate. Once the Chair is overruled, that rule is unenforceable until reinstated. We are saying that is not our intent this time. We don't intend to attack the rule. We want the rule to stay in place. We want to make sure anybody who votes for this, in the national security interest, that we must proceed with oil exploration in the Arctic, is not being told, Oh, you are going to destroy rule XXVIII. It wasn't destroyed in 1996. It was made inoperable by an interpretation of the Parliamentarian.

By the way, again, that was consistent with precedent. We are saying that precedent will not apply to this bill, the Department of Defense appropriations bill, when it comes before the Senate.

This is going to go on for a long time, but one thing I know is that I am not violating the rules. When I proceed with this amendment in the conference report, which I fully intend to do, and trust the Senate—I am putting my faith in the Senate to support national security as a part of the conference report.

Remember now, we don't have an amendment. We have a conference report now. That is treated in a different manner than an amendment to the bill. I am not offering an amendment to the bill. I am managing a conference report on the Defense appropriations bill for 2006. As such, I expect that bill to pass, and I expect that bill to pass containing the provision which is in the interest of national security, that we now proceed with exploration and development of the Arctic Plain as was intended by two great Senators, Senator Scoop Jackson and Senator Tsongas. It was their concession to the State of Alaska, as President Carter insisted on withdrawing 105 million acres of Alaska. Only 1.5 million acres were assured for the future development of our State. One point five million were assured for the future development of the State, and 105 acres were set aside and not available for development. There can be no oil and gas development in those other areas. In this area,

we allowed 1.5 million acres to stay open for development.

More will be said later. I thank the Chair for her patience.

Mr. REID. Parliamentary inquiry, Madam President: If the Chair is overruled on rule XXVIII exceeding the scope point of order, would that set a precedent that would lower the standard for enforcement of that rule to such an extent as rendered almost impossible to enforce?

The ACTING PRESIDENT pro tempore. It would lower the standard with respect to enforcing the rule.

Mr. REID. Madam President, let me say this. Clearly what is being attempted by the distinguished Senator from Alaska is wrong. As the Senator will recall, we had another Parliamentarian who was fired over a matter similar to this. This is absolutely wrong what is being attempted here.

This is the Defense appropriations bill, and to wave the flag of national defense, even at the very best, if ANWR goes forward, it will be 10 years before any oil is produced. Oil companies made, as I indicated last night, $100 billion last year. This is a speck of oil if, in fact, it goes forward.

I know how strongly the Senator from Alaska feels about it. Why not do it the right way? Even though I voted against this being inserted in the reconciliation, which I think was wrong, it was done according to the rules, and the Senator from Alaska and what he wanted prevailed. To do it this way is absolutely wrong. It shows that if it is inconvenient, if the rules are inconvenient, then just overrule them. We will play around with it. We will sustain the Parliamentarian at one point, overrule him in another, and then come back in the same bill and pretend as if nothing had ever happened. This has never been done before.

It shows absolute contempt for the rules of this body, and it shows that Lord Acton was right. Power tends to corrupt, and absolute power tends to corrupt absolutely. That is what we have here. That is what is going on in Washington.

I will be happy to run through what I think are the ethical lapses that have taken place in this town, led by the Republicans over the past year, but that is not necessary. I believe what we have is intellectual games being played in a negative fashion. This is absolutely wrong to do this, to hold up this bill.

We will have a vote. As things now stand, we will vote on cloture probably on Wednesday. Following that cloture vote, there will be a vote in upholding the ruling of the Chair, and we will see what happens at that time. The votes are very close. I would not be a betting person either way on either cloture or this rule, but understand that sticking this in this bill has nothing to do with the national defense of this country. It has everything to do with breaking the rules to the convenience of the powerful.

I am disappointed that this happened. I think it is wrong. I think when the history of this body is written, if this is allowed to go forward, it will be a dark day in the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President——

Mr. REID. Madam President, let me just finish. I have one additional thing to say.

Mr. STEVENS. Pardon me. I apologize.

Mr. REID. I will be finished just quickly.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. Regarding conversations we had on this floor about this has been done before, returning to the Chair and later fixing it, it has not been done before. This is a unilateral fix of a precedent in the same bill. Anything that has been done before has been done on a bipartisan basis. I was part of changing it back with Senator TRENT LOTT. It was the right thing to do. Scope of conference is very important. It should not be changed willy-nilly. It should not be changed because it is inconvenient. The precedents of this body are extremely important, and I think they are being played with at this time. It is really unfortunate.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Madam President, I again apologize to the Senator from Nevada. I thought he had completed his statement.

I want to read to the Senate the comments I made in 1996 at the time the point of order was pending on the FAA conference report, just to show I have maintained a constant position with regard to this. I said this:

> Mr. President, this is a rather difficult situation. We have just passed, recently, a Defense appropriations bill. I was the chairman of that conference. Before it was over, we had a whole series of other bills, a series of legislative items. It was not necessary to raise a point of order. Everybody knew we had exceeded the scope of the conference.

Now, this is 1996. I am again quoting:

> I ask any chairman of a conference if he or she has ever really been totally restricted by this rule? . . . When the leader became aware that Senator Kennedy was going to raise this point of order, the leader determined to raise it himself. I take it that having done that, there is no question this is a rather significant occasion. I hope it will be a rather narrow precedent.
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> I point out to the Senate that this provision is not only the only matter that exceeds the scope of the conference. We had to include, at this administration's request, special authority for the executive branch to purchase and deploy explosive detection devices. We put in here the provisions that pertain to the rights of survivors of victims of air crashes. We put in the provisions requiring passenger screening companies to be certified by the FAA. That is not required under any existing law. We put in restrictions on underage pilots, following the one disaster that involved a young girl who was a pilot. We put in a provision requiring the FAA to deal with structures that interfere with air commerce.
>
> My point is, as we get to the end of a session, we, of necessity, include in a bill extraneous matters totally beyond the scope. We know they are beyond the scope. As the chairman of the Defense Appropriations Committee, I knew all those items we brought to the floor earlier this week were beyond the scope of the conference, but we did not anticipate anyone would raise a point of order.
>
> Anticipating that Senator Kennedy would bring this point of order before the Senate, the leader made this point of order. I ask the Senate to keep in mind this will be a rather limited precedent, in my opinion. I do not know whether the Chair will agree with me, but clearly when you get to the end of a Congress, some things have to be done. We did not have time to take up separate bills. We held a hearing on the bill in the Senate Commerce Committee dealing with the rights of victim-survivors of air disasters. They pleaded with us to include that bill in this legislation. We have done so.
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> In other words, this point of order is not only valid, in my judgment, against the amendment offered by Senator Hollings, but against the other provisions where we have exceeded the scope on various matters on this bill.

What I am saying is we have had this process year after year. I know of other amendments that have gone into bills like this at the last minute where people tried to get passed something that did not pass before, and because of the circumstances they passed.

In this instance, again, the Senate is going to hear this over and over again, that this is a matter of national security that I have for 25 years tried to support the position taken by the Senator from Washington and the Senator from Massachusetts that this area should be open to oil and gas exploration. We have had two environmental impact statements. They have proved that no permanent damage will be done to this area. We have disproved all the allegations concerning destruction of wildlife. As a matter of fact, there are seven to eight times more caribou on the North Slope today than there were at the time the oil pipeline was built and at the time we were told if that pipeline is built there will never be another caribou in Alaska, in effect. They said we would destroy it.

The other day, they called it the Serengeti. I do not want to point out the Senator who said it, but one Senator went up there and viewed it. When that Senator got off the helicopter, that Senator said: What the blank is this all about? That person had looked over the area when it was snowing and said: Why would someone possibly block this?

I have to say that this is the beginning of a long debate. I yield the floor.

The ACTING PRESIDENT pro tempore. The minority leader.

Mr. REID. Madam President, if a Senate filibuster over ANWR stops a Defense bill, the legislation can be quickly modified and passed. So there is no impact on military finances. If someone proposing this loses, then we will reconstitute the conference and ANWR will be out. Now, this is not me talking. This is the distinguished

President pro tempore of the Senate, Mr. STEVENS, quoted in yesterday's Fairbanks Daily News-Miner.

Senator STEVENS said: If the Senate filibuster stops the Defense bill, the legislation will be quickly modified and passed. There is no impact on military finances. If we lose, the distinguished Senator went on to say, we will reconstitute the conference and ANWR will be out.

That is the point. I appreciate the honesty of the interview with my friend from Alaska with this newspaper because that is the way it is. If we prevail, that is, those who oppose this being in the bill, on the point of order which will likely be on Wednesday, then the Defense bill goes forward. No one voting on this point of order will stop the Defense bill. No one voting for cloture will stop the Defense bill. This bill will go forward. There is a continuing resolution that takes us to the end of the year, and we need not get that far. If, in fact, we have a majority of the Senators who vote on this point of order and it prevails, then the bill will go forward, just as the Senator from Alaska said yesterday in the Fairbanks newspaper.

So I would hope that there would come a time—we could go home today. We could be finished today. The Senator from Alaska knows he has the votes to do what he did on reconciliation again. As soon as the new session of this Congress convenes, we could take this out and goodwill would prevail. We would go home tonight, and we would be home 4 or 5 days before Christmas.

Mr. STEVENS. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. STEVENS. I agree. I agree with the statement the Senator read. I think that is true. I am not accusing anyone of delay. I would be happy to have a time agreement on the conference report, and I would be happy to have a time agreement on any type of point of order or motion to be raised on the conference report. I will be glad to have a vote on the conference report by voice vote if it passes. I am anxious to let people get home. I will be happy to get time agreements, and I do believe if we lose we can go back to conference and protect the Department of Defense.

I am not accusing anyone of harming the Department of Defense. I am urging people to think about national defense.

Would the Senator agree to any type of time agreement?

Mr. REID. I will be happy to consider anything that is reasonable. I am sure there are things we can do.

Mr. STEVENS. Good.

Mr. REID. One of the things I think would be appropriate, the way I understand things now, if everything is here by midnight tonight and cloture is filed, there will be a Wednesday cloture vote. After that Wednesday cloture vote, there will be a vote on this point of order. That would be Wednesday.

If it is necessary that there be cloture invoked on the Defense authorization bill—and I am not sure that is necessary, but it is possible—the two cloture votes would be back to back.

So I would be happy to consider working out some reasonable time agreement. Maybe we could even have the vote on the point of order first.

Mr. STEVENS. I thank the Senator. I think that is the way to go.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

THE ALASKA WILDLIFE REFUGE

Ms. CANTWELL. Madam President, I rise to raise my concerns about this process and the unbelievable avenues through which this legislation is coming before us, just to try to open up the Arctic National Wildlife Refuge for oil drilling.

As my colleagues have just been discussing on the floor, these are priorities, for Congress to pass the DOD appropriations bill and the DOD authorization bill. As this Senator sees it, we could wrap up this business today and go home. But because a provision in this legislation coming over from the House opens up drilling in the Arctic National Wildlife Refuge, you bet there are Members on this side of the aisle—Members on both sides of the aisle in the House and Senate—who have great concerns over this measure.

As one Senator who would like to wrap up the year today and go home and spend time with my family, I know there are the prospects of us staying here to fight for something we believe in. It is very clear that we could go home today if the Senator from Alaska would agree to take this language out of the bill. So, in fact, this process is being held up over the fact that he has inserted a controversial measure into this legislation. It is such a controversial measure that House Democrats and Republicans refused to vote on a budget bill while it still remained in the legislation. That gives you some idea of how controversial it is. In fact, they took it out of the budget bill because they could not get the budget bill passed with it in there.

Now my colleague wants to say that somehow he is not holding up the process when it is very clear that he is holding up the process. We could all go home today instead of arguing over something that has been argued over for 25 years. There is a reason we have been arguing over it for 25 years, and that is because there has been great division over this issue.

The notion that this is about national security is unbelievable to me. To me, what national security is really about is passing a clean DOD appropriations bill that gives resources to our troops. In fact, we should give the military in Iraq the ability to do a better job protecting the security and infrastructure of the pipeline there. We lose 800,000 barrels a day of oil in Iraq that could be part of helping the Iraqi government get on its feet and the rest of the world energy markets stabilize. But this ANWR measure is holding up a DOD bill instead of giving the military all the resources they need. We are not talking about an oil supply 10 years from now; we are talking about something we should be doing today in terms of securing existing infrastructure. We should strip this ANWR language out and pass this bill.

I understand the Senator from Alaska thinks this ANWR provision is in the interest of some, because I think it is in Alaska's interest. In 2005, petroleum counted for 86 percent of the State of Alaska's general revenues—86 percent of their State revenues. In fact, according to a published article, State officials expect that at least until 2013, 74 percent of Alaska's general purpose revenues will come from oil revenues. So I get why the State of Alaska cares so much. In fact, CBO recently calculated that Alaska will get $5 billion in revenue from this legislation if it is passed. Of course Alaska cares about this. Of course Alaska would hold up the legislative process and keep us here extra days to get this bill passed and get ANWR in by hook or crook, any possible way. Of course they would.

But don't say that this is in the national interest. What is in the national interest of our country is to get over our overdependence on foreign oil. We need to start doing that now, as well as get off of our overdependence on domestic oil and fossil fuels in general. Instead of implementing this Arctic drilling program, we ought to be implementing policies that help us diversify and move forward, so people can have affordable energy rates in this country and not be held hostage by these special interests.

It is another thing to say, somehow, this legislation has arrived here through a clean process. The fact is you would basically have to overrule the Parliamentarian—which is our judge here. It is basically like going to a Federal court, having a judge rule on something, then when the judge rules on it voting to overturn them, and then a few minutes later reinstating the rule. If that isn't a quick fix around the legislative process here, I don't know what is. But this whole ANWR measure, trying to get it on any piece of legislation that is moving, has been exactly that—every attempt to make the process go without adhering to the rules.

The fact is this legislation comes to us and basically takes away about seven different laws that would otherwise apply to drilling in the Arctic. It really is—it is a free ride, a back door that circumvents seven different Federal laws and countless regulations that have been on the books for years. So this is not just passing ANWR; this is basically giving the oil companies a sweetheart deal around Federal laws and regulations that no other company has ever gotten. I guarantee, Scoop Jackson would roll over in his grave.